

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLINT DIDIER, et al.,

Plaintiff,

v.

JAY INSLEE, in his capacity as
Governor of the state of Washington,

Defendant.

CASE NO. C20-5408 BHS

ORDER DISMISSING
PLAINTIFFS' COMPLAINT
WITHOUT PREJUDICE FOR
LACK OF JURISDICTION

This matter comes before the Court on the order to show cause. Dkt. 29.

On July 24, 2020, the Court *sua sponte* questioned its own jurisdiction and ordered any party to show cause why the complaint should not be dismissed without prejudice for lack of jurisdiction. *Id.*

On July 28, 2020, Plaintiffs Clint Didier, Jason Bernica, Patty DeTro, Tim Eyman, Lawanda Joy Hatch, Lisa Thomas, and Dean Wellsfry ("Plaintiffs") responded. Dkt. 30. Although Plaintiffs cite authorities in support of their position that the Court has jurisdiction, they fail to provide any authority on the critical issue of Governor Inslee's ability to enforce his emergency proclamations. In the absence of such authority,

1 Plaintiffs are simply seeking an advisory opinion on whether the emergency
2 proclamations violate the United States and Washington constitutions. The Court's
3 jurisdiction is limited to cases or controversies, and in the absence of Governor Inslee's
4 ability to enforce his proclamations, Plaintiffs have failed to establish an actual case or
5 controversy under *Ex parte Young*, 209 U.S. 123 (1908). *See, e.g., In re Abbott*, 956 F.3d
6 696, 709 (5th Cir. 2020) ("[t]he power to promulgate law is not the power to enforce it.").
7 Therefore, the Court *sua sponte* dismisses Plaintiffs' complaint without prejudice for lack
8 of jurisdiction. *In re Jackson*, 184 F.3d 1046, 1048 (9th Cir. 1999) ("Eleventh
9 Amendment sovereign immunity limits the jurisdiction of the federal courts and can be
10 raised by a party at any time during judicial proceedings or by the court *sua sponte*.").

11 The Clerk shall enter judgment and close this case.

12 **IT IS SO ORDERED.**

13 Dated this 10th day of August, 2020.

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16 BENJAMIN H. SETTLE
17 United States District Judge
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